

§ 537.408 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 537.201 if effected after the effective date.

§ 537.409 Activities under pre-May 21, 1997 agreements.

Section 537.210(c) exempts from all prohibitions contained in this part, except those contained in § 537.203, activities undertaken by a U.S. person pursuant to an agreement entered into prior to May 21, 1997, between a U.S. person and the Government of Burma or a nongovernmental entity in Burma. A U.S. person who is a party to a pre-May 21, 1997 agreement falling outside the scope of § 537.203 may enter into subsequent agreements with foreign persons where such agreements are pursuant to, or in exercise of rights under, the pre-May 21, 1997 agreement and are specifically contemplated by the pre-May 21, 1997 agreement. The exercise of rights under a pre-May 21, 1997 agreement falling outside the scope of § 537.203 may include the exercise of options to extend the contract, depending on such factors as the degree of specificity with which the option to extend is described in the pre-May 21, 1997 agreement, and the degree to which the party wishing to renew can enforce its decision to exercise the option.

§ 537.410 Contracts and subcontracts regarding economic development of resources in Burma.

Section 537.204 prohibits new investment in Burma by U.S. persons. Section 537.311 defines the term *new investment* to include certain contracts providing for the general supervision and guarantee of another person's performance of a contract that includes the economic development of resources located in Burma. With respect to entry into such contracts, only the following will be considered new investment in Burma:

(a) Entry into contracts for supervision and guarantee at the highest level of project management, such as entry into a contract with a development project's sponsor or owner to become a prime contractor or general manager for a development project;

(b) Entry into subcontracts where the functional scope of the subcontractor's obligations is substantially similar to that of a prime contractor's or general manager's obligations for a development project; or

(c) Entry into a contract or subcontract where the consideration includes a share of ownership in, or participation in the royalties, earnings or profits of, the economic development of resources located in Burma.

§ 537.411 Purchase of shares in economic development projects in Burma.

The purchase, directly or indirectly, from the Government of Burma or a nongovernmental entity in Burma of shares of ownership, including an equity interest, in the economic development of resources located in Burma is prohibited unless the purchase is pursuant to an agreement entered into prior to May 21, 1997.

§ 537.412 Investments in entities involved in economic development projects in Burma.

(a) The purchase of shares in a third-country company that is engaged in the economic development of resources located in Burma is prohibited by § 537.204 where the company's profits are predominantly derived from the company's economic development of resources located in Burma.

(b) If a U.S. person holds shares in an entity which subsequently engages predominantly in the economic development of resources located in Burma or subsequently derives its income exclusively or predominantly from such economic development, the U.S. person is not required to relinquish its shares, but may not purchase additional shares. Divestiture of the shares in such an entity to a foreign person—otherwise constituting the facilitation of that foreign person's investment in Burma—is authorized under general license pursuant to § 537.524.

§ 537.413 Sale of interest in economic development projects in Burma.

The sale to a foreign person of a U.S. person's equity or income interest in a